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**PAROLE BOARD**

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**Paul M. Treseler**  
Chairman

**Michael J. Callahan**  
Executive Director

**DECISION**

**IN THE MATTER OF**

**THOMAS FOLEY**  
**W38388**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** April 12, 2016

**DATE OF DECISION:** September 22, 2016

**PARTICIPATING BOARD MEMBERS:** Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe

**DECISION OF THE BOARD:** After careful consideration of all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of offense, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by unanimous vote that the inmate is a suitable candidate for parole. Parole is granted to a long term residential program, with special conditions, after successful adjustment to one year in lower security.

**I. STATEMENT OF THE CASE**

On August 4, 1981, in Norfolk Superior Court, Thomas Foley pled guilty to the second degree murder of Warner Coleman. That same day, the judge placed on file an indictment for larceny of a motor vehicle. Mr. Foley was sentenced to life in prison with the possibility of parole for the murder of Mr. Coleman.

Mr. Foley and Mr. Coleman had resided at the same halfway house. On October 10, 1980, both men were ordered to leave the facility for drinking alcohol. They took a cab to the house of Mr. Foley's parents in South Boston. In the early hours of October 11, Mr. Coleman entered the bedroom of Mr. Foley's mother and attempted to get into bed with her. She called her son for help, and he promptly ejected Mr. Coleman from the home. A few minutes later, Mr. Foley followed Mr. Coleman outside and confronted him. He then beat Mr. Coleman until he was either dead or unconscious. After, Mr. Foley returned to the house and told his mother what he had done. She advised her son to check on Mr. Coleman's condition. After enlisting

the help of a friend, Dennis Misiak, they went to the location where Mr. Foley had left Mr. Coleman. They proceeded to load Mr. Coleman's body into the back seat of the car. Using a screwdriver that was in the vehicle, Mr. Foley stabbed Mr. Coleman several times in the neck to ensure that he was dead.

Shortly after Mr. Coleman was stabbed, Mr. Foley and Mr. Misiak set out in search of a place to conceal Mr. Coleman's body. While attempting to find a location, they were stopped by police at the South Shore Plaza in Braintree and placed under arrest.

## **II. PAROLE HEARING ON APRIL 12, 2016**

Mr. Foley's initial hearing before the Parole Board took place on October 30, 1995, and resulted in the denial of parole. His review hearing, on October 26, 1998, also resulted in the denial of parole. Mr. Foley received a positive parole vote in June 2001 and, in 2002, he was paroled to a long term residential treatment program. Mr. Foley successfully completed the program and eventually moved into his own apartment. In September 2003, however, Mr. Foley received a verbal warning from his parole officer for associating with a person who had a criminal record. In 2007, Mr. Foley was arrested after police received a report of domestic violence at the home he shared with his (then) girlfriend. He was charged with two counts of assault with intent to kill, three counts of assault and battery, and two counts of intimidation. All of the charges were later dismissed with prejudice in Middlesex Superior Court. The Board subsequently revoked Mr. Foley's parole based on violations for irresponsible conduct and for associating with someone who had a criminal record (his girlfriend). After returning to prison, Mr. Foley had review hearings on August 19, 2009 and April 3, 2012, both of which resulted in the denial of parole.

Mr. Foley, now 56-years-old, appeared before the Parole Board on April 12, 2016, for a review hearing. In his opening statement to the Board, Mr. Foley apologized to the Board Members for his behavior at his previous hearing. Mr. Foley admitted that he was "ashamed" and "embarrassed" the last time he came before the Board, and tried to hide these feelings by acting in a disrespectful manner. He also took responsibility for lying to his parole officer and for moving an ex-convict into his home. When asked about his substance use history, Mr. Foley described himself as a black out alcoholic who began drinking alcohol when he was 10-years-old. He came from a family of alcoholics and drug users. When Mr. Foley was in third grade, he was suspended for falling asleep in school and for being insolent, due to his drinking. Mr. Foley's drinking interfered with his attendance in school, and he stopped going to school in fifth grade. Although Mr. Foley used a few drugs, he mainly consumed alcohol. At the time of the murder, he was drinking almost every day. Mr. Foley also admitted that he made "home brew" alcohol while incarcerated, as well as used a few drugs (including marijuana, heroin and mescaline). According to Mr. Foley, he stopped drinking alcohol in 1984 and has not used any substances since 1996.

When addressing his underlying crime, Mr. Foley said that he knew Mr. Coleman from a court ordered sobriety program. On the day of the murder, both men had been thrown out of the residential program. They spent the day drinking alcohol and then went to the home of Mr. Foley's parents. Mr. Foley left briefly to purchase more beer. He then returned to the home and consumed the beer in the basement. While in the basement, Mr. Foley heard his mother screaming his name. He claimed that he ran upstairs and found Mr. Coleman naked, holding

his mother down, and attempting to get into bed with her. Mr. Foley grabbed Mr. Coleman, pushed him into the kitchen, "smacked him around a little bit," and then threw him out of the house. Mr. Foley's mother began yelling at him and asking what sort of people he was bringing into her home. Mr. Foley grabbed his beer and went outside to talk to Mr. Coleman. When he caught up to Mr. Coleman, Mr. Foley handed him a beer and asked him what he had been doing. Mr. Coleman told Mr. Foley that he had been "trying to get a piece." After the two men walked behind the South Boston Court House, Mr. Coleman sat down, while Mr. Foley remained standing up and drinking beer. Mr. Foley began kicking Mr. Coleman and "beating on him." Mr. Foley left the scene and returned with a stolen car. He put Mr. Coleman in the car and proceeded to stab him. Mr. Foley expressed regret for killing Mr. Coleman and realizes that his actions were "horrendous."

During the course of the hearing, Mr. Foley also discussed the events that led to his parole revocation. The Board asked Mr. Foley to address the biggest obstacles that he faced while on parole. Mr. Foley indicated that the inability to work while in residential treatment was one of his biggest challenges. He regrets not doing more research prior to entering the program, since he was unaware that he would not be able to work during treatment. When he left the program, he had to live in a homeless shelter until he was able to earn enough money to move into sober housing. Mr. Foley has included a long-term residential treatment program in his present parole plan, which he believes will allow him to work and rebuild his life in a safe environment. While on parole, Mr. Foley also had some difficulties with relationships. Three separate incidents between Mr. Foley and his girlfriend occurred in 2007, which eventually led to Mr. Foley being re-incarcerated and facing new charges. He now realizes that he cannot "jump" into relationships, and must take things "slow." Looking back, Mr. Foley also realizes that he should not have gotten into a relationship with someone who had an alcohol problem.

Since his return to custody in 2007, Mr. Foley has participated in numerous programs, including Criminal Thinking, Violence Reduction, Health Awareness, Setting Goals, Problem Solving, Men's Work, Correctional Recovery Academy, Smart Recovery, and multiple Alternatives to Violence programs. Programming has helped Mr. Foley identify the triggers for his anger issues. He now realizes that he needs to use "slow down skills" when interacting with people. Mr. Foley said that he knows he must fully listen and pay attention when someone speaks to him. He is also more cognizant of the body language he uses while communicating with others. Mr. Foley received on the job training through the Building Trades program, and he participates in a Companion Program to care for sick and elderly individuals. Prior to taking part in the Companion Program, Mr. Foley was employed in the sewing shop and as a janitor.

The Board considered oral testimony from Norfolk County Assistant District Attorney Marguerite Grant. While she commended Mr. Foley on some of the progress that he has made, she opposes the granting of parole. She also submitted a letter on behalf of the Norfolk County District Attorney's Office. The Board did not receive any testimony in support of Mr. Foley's parole.

### **III. DECISION**

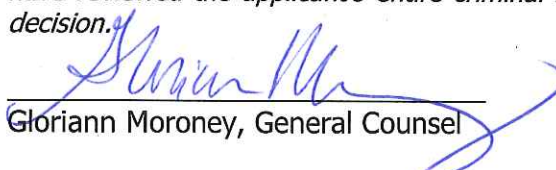
Mr. Foley has maintained a positive record within the correctional institution since being returned to prison in 2007. He now appears empathetic and insightful of his actions that resulted in the death of Mr. Coleman, as well as his decisions that led to his parole revocation. The Board is of the opinion that Mr. Foley has demonstrated rehabilitative progress and,

consequently, has acquired the tools and skills that will assist him in a successful transition from incarceration. In forming this opinion, the Board has taken into consideration Mr. Foley's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board also considered a risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Foley's risk of recidivism.

The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." 120 C.M.R. 300.04. After applying this appropriately high standard to the circumstances of Mr. Foley's case, the Board is of the unanimous opinion that Mr. Foley is a suitable candidate for parole to a long term residential program, with special conditions, after successful adjustment to one year in lower security. Mr. Foley must remain program compliant and engaged in Alcoholics Anonymous (AA)/Narcotics Anonymous (NA).

**SPECIAL CONDITIONS:** Waive work for LTRP (Long Term Residential Program); Must be at home between 10 p.m. and 6 a.m.; Electronic monitoring – GPS at Parole Officer's discretion; Supervise for drugs and liquor abstinence, testing in accordance with Agency policy; Report to assigned MA Parole Office on day of release; Must have mental health counseling for healthy relations adjustment/transition; Long Term Residential Treatment Program; Attend AA at least three times/week; Mandatory Screen for MATRI (Medication Assisted Treatment Reentry Initiative).

*I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. Pursuant to G.L. c. 127, § 130, I further certify that all voting Board Members have reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.*

  
Gloriann Moroney, General Counsel

9/22/16  
Date